



STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: February 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025185

[REDACTED]

[REDACTED]

On February 6, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 24, 2017 eligibility determination notice and October 24, 2017 enrollment confirmation notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the NY State of Health Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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Decision

Decision Date: February 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025185

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Issue

The issue presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that your eligibility for advance payments of the premium tax credit ended effective October 31, 2017?

Procedural History

On July 18, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$283.00 per month in advance payments of the premium tax credit (APTC) for a limited time and eligible to receive cost-sharing reductions for a limited time if you enrolled in a silver level qualified health plan, effective September 1, 2017. The notice further directed you to provide documentation confirming your income before October 15, 2017.

Also on July 18, 2017, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in a qualified health plan with an enrollment start date of January 1, 2017 and that your APTC would be applied to your monthly premium as of August 1, 2017.

On August 26, 2017, you faxed documentation of your household income to NYSOH. On September 6, 2017, this documentation was uploaded to your NYSOH account.

On September 7, 2017, NYSOH verified the income documentation you submitted, updated your account consistent with the income documentation, and submitted an application on your behalf.

On September 8, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$249.00 in APTC for a limited time and eligible to receive cost-sharing reductions for a limited time if you enrolled in a silver level qualified health plan, effective October 1, 2017. The notice further directed you to provide documentation confirming your income before October 15, 2017.

Also on September 8, 2017, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in a qualified health plan with a plan enrollment start date of January 1, 2017 and that your new APTC amount would be applied to your monthly premium as of October 1, 2017.

On September 18, 2017, NYSOH redetermined your eligibility for financial assistance.

On September 19, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$249.00 in APTC for a limited time and eligible to receive cost-sharing reductions for a limited time if you enrolled in a silver level qualified health plan, effective November 1, 2017. The notice further directed you to provide documentation confirming your income before October 15, 2017.

On October 23, 2017, NYSOH redetermined your eligibility for financial assistance.

On October 24, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost. The notice stated that you were not eligible to receive APTC or cost-sharing reductions because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective November 1, 2017.

Also on October 24, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a qualified health plan with \$0.00 of APTC applied to your premium.

On November 20, 2017, you updated your application for financial assistance.

On November 21, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$388.00 in APTC for a limited time and eligible to receive cost-sharing reductions for a limited time if you enrolled in a silver level qualified health plan, effective January 1, 2018.

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On December 1, 2017 you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the months of November 2017 and December 2017.

On February 6, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you had previously elected to receive all of your notices from NYSOH by electronic mail. However, you explained that you changed this setting, electing to receive all of your notices via regular mail. You could not recall specifically when you made this update, but believe it was sometime in July 2017.
- 2) You testified that you do not believe you received the July 18, 2017 eligibility determination notice which advised you that your eligibility was limited and that you needed to submit income documentation via regular mail. You could not recall if you received an electronic alert directing you to this notice.
- 3) You testified that you did not receive the September 8, 2017 eligibility determination notice or the September 19, 2017 eligibility determination notice which advised you that you were eligible for APTC for a limited time and that income documentation was needed in order to confirm your eligibility.
- 4) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 5) You testified that you were aware that you needed to submit income documentation, which is why, on August 26, 2017, you sent a three-page fax to NYSOH including your 2016 federal tax return and your spouse's social security award letter.
- 6) On September 6, 2017, a three-page fax sent on August 26, 2017 was uploaded to your NYSOH account. This consisted of your 2016 1040 which includes ordinary dividends, business income, pension payments, and your spouse's social security benefits less the deductible part of the self-employment tax as well as an award letter

from the Social Security Administration regarding your spouse's benefits.

- 7) On September 7, 2017, NYSOH verified the income documentation you submitted. NYSOH updated the income information in your application, specifically, the amount of your spouse's social security benefits, and submitted an application on your behalf.
- 8) You testified that you never received any notice that the income documentation you submitted did not confirm the information in your application and that you would need to submit additional documentation.
- 9) There is no notice in your account prior to October 23, 2017 advising you that the income documentation you submitted was insufficient and that additional documentation was required.
- 10) Your NYSOH account indicates that on October 23, 2017 your application was run and you were found no longer eligible for APTC as of November 1, 2017.
- 11) On November 20, 2017, you updated your application for financial assistance for the 2018 coverage year.
- 12) You testified that you are seeking reinstatement of your APTC for the months of November 2017 and December 2017.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Verification of Eligibility for Advance Payments of the Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

An applicant is required to attest to their household's projected annual income for purposes of determining their eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)).

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For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant in order to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual when a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The issue under review is whether NYSOH properly determined that your eligibility for APTC ended effective November 1, 2017.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to their household's projected annual income. For individuals seeking APTC, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on July 18, 2017, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before October 15, 2017.

You testified that you did not receive the July 18, 2017 eligibility determination notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility via regular mail. You further testified that you could not recall whether you had received an electronic alert on or around July 18, 2017 advising you that there was a new notice in your NYSOH account. You testified that you previously had elected to receive notices from NYSOH via electronic mail, however, you could not recall specifically when you changed this election. There is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

You testified that you were aware that you were required to submit income documentation, which is why you faxed a copy of your 2016 1040 and your spouse's social security award letter to NYSOH on August 26, 2017.

On September 7, 2017, NYSOH verified the income documentation you submitted on August 26, 2017, and updated the income information in your application based on this documentation.

On October 23, 2017, NYSOH redetermined your eligibility for financial assistance.

On October 24, 2017, NYSOH issued a notice of eligibility determination stating that you were newly eligible for a full cost qualified health plan. This was because you had failed to submit income documentation.

However, at the time of the October 23, 2017 eligibility redetermination, income documentation had been submitted and NYSOH had verified this documentation.

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Therefore, NYSOH incorrectly found that you were ineligible for APTC effective November 1, 2017.

The October 24, 2017 eligibility determination notice and October 24, 2017 enrollment confirmation notice are RESCINDED.

However, because it is past the end of the 2017 policy year, no further action by NYSOH is required as of this Decision. Instead, at the end of a tax year, a person who elects to use APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year, which may also result in a tax credit or reduction in tax liability if the full amount of APTC to which a person is entitled is not taken throughout the year. Conversely, if a person received more APTC than their maximum entitlement, based on gross income, they might owe the excess as an additional income tax liability. The amount of APTC to which you were entitled can be reconciled at the time you file your 2017 federal tax return.

Decision

The October 24, 2017 eligibility determination notice and October 24, 2017 enrollment confirmation notice are RESCINDED.

Although you were improperly redetermined ineligible for APTC for the months of November 2017 and December 2017, your APTC for the months of November 2017 and December 2017 can be reconciled when you file your federal income tax return for 2017.

Effective Date of this Decision: February 12, 2018

How this Decision Affects Your Eligibility

This decision does not change your eligibility for APTC.

The amount of APTC which you should have been entitled to receive in November 2017 and December 2017 can be reconciled when you file your federal income tax return for 2017.

If You Disagree with this Decision (Appeal Rights)

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211

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- By fax: 1-855-900-5557

Summary

The October 24, 2017 eligibility determination notice and October 24, 2017 enrollment confirmation notice are RESCINDED.

Although you were improperly redetermined ineligible for APTC for the months of November 2017 and December 2017, your APTC for the months of November 2017 and December 2017 can be reconciled when you file your federal income tax return for 2017.

This decision does not change your eligibility for APTC.

The amount of APTC which you should have been entitled to receive in November 2017 and December 2017 can be reconciled when you file your federal income tax return for 2017.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&btumi ama wo obi a okyer& kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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